IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 340 OF 2006.

1. Shri Nicholas Lima,
resident of House No. 53,
Satismo Wado,
Taleigao-Ilhas, Goa.

2. Shri Amar Komarpant,
House No. 617, Tembiwada,
Canacona, Goa.

3. Shri Sandeep M. Velguekar,
House No. 370, Mudda Waddo,
Saligao, Bardez, Goa. ..... Petitioners.

Versus

1. State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim, Bardez,
Goa.

2. The Director,
Directorate of Fire and Emergency
Services, St. Inez, Panaji, Goa. .... Respondents.

Shri D. P. Bhise, Advocate for the Petitioners.

Mrs. W. Coutinho, Government Advocate for the State/Respondents.

CORAM: J. N. PATEL &
N. A. BRITTO, JJ.

DATE: 7th NOVEMBER, 2006.

ORAL JUDGMENT : (Per J.N. Patel, J.)

Rule. Rule returnable forthwith.

2. Heard the learned counsel for the parties.

3. The petitioners have challenged the fresh advertisement issued on 15th June, 2006 by the respondents inviting applications for the post of Fireman Group "D" on the ground that the earlier advertisement which was issued on 22nd February, 2000 provided the age limit for the said post as not exceeding 40 years subject to relaxation.

4. It is the case of the petitioners that in response to the first advertisement, they had applied for the post of Fireman and were called for interview, but the said interview came to be cancelled and a fresh advertisement which is subject matter of challenge came to be issued. This has deprived the petitioners of the opportunity of getting employment as Firemen.

5. It is the case of the petitioners that they have already undergone training at the Fire Force Training Centre known as " XX-Recruit Training For Fireman " and therefore the petitioners should be considered for being

employed as Firemen and the Recruitment Rules as framed under Notification No. 1/2/82-PER (pt. File) dated 6th May, 2005 to the extent of age limit for direct recruitment under column 6 to the Rules without any relaxation or protection and providing opportunity to trained recruit fireman be quashed and set aside on the ground of arbitrariness

6. On behalf of the respondents, it is submitted that there is no dispute over the fact that the first advertisement which was published for recruitment of Fireman on 22nd February, 2000 came to be withdrawn and that in the said advertisement, the age limit for the post of Fireman was stated as 40 years. It is the case of the respondents that the said advertisement was required to be cancelled as the age limit in the said advertisement was wrongly quoted as not exceeding 40 years which is contrary to the Rules which has been framed vide Notification dated 1.02.82 which clearly provides the age limit for direct recruits as not exceeding 28 years (relaxable for Government Servants by 5 years in accordance with the instructions or orders issued by the Government) and therefore the respondent was justified in cancelling the advertisement and re-advertising the post by specifying the age limit as 28 years in accordance with the Rules.

7. The learned Counsel for the petitioners submitted that the petitioners are

trained Firemen and more suitable for being recruited as Firemen, compared to the persons who have not undergone such training and that as they have undergone training in Fire Fighting, they are entitled to relaxation of age.

8. It is also contended on behalf of the petitioners that the Respondent-State is estopped from cancelling the first advertisement which provided the age limit as not exceeding 40 years and therefore the respondents be directed to act upon the first advertisement and consider the case of the petitioners for appointment as Firemen.

9. We find no merit in the contentions of the petitioners and the petitioners do not qualify for being recruited for the post of Firemen as they do not meet the eligibility criteria insofar as it relates to age limit which is not exceeding 28 years, in accordance with the Rules of recruitment and, therefore, they have no case to claim for being considered for recruitment as Firemen.

10. The contention of the petitioners that the first advertisement has been cancelled without any justification and that in accordance with the age limit stated in the first advertisement as not exceeding 40 years for recruiting Firemen, they were qualified for being considered, also cannot be

accepted as the first advertisement was found to be defective to that extent and was contrary to the Rules of recruitment which were prevalent and in force at the time the post came to be advertised. Therefore, the respondent/State was justified in cancelling the first advertisement and issuing fresh advertisement for the post of Fireman which is in accordance with the Recruitment Rules.

11. The petition, therefore, stands dismissed and Rule is discharged.

J. N. PATEL, J.

N. A. BRITTO, J.

sl.